



Department of Transportation
National Highway Traffic Safety Administration
[Docket No. NHTSA-2013-0146; Notice 2]
BMW of North America, LLC, Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT)

ACTION: Grant of Petition

SUMMARY: BMW of North America, LLC, (BMW) a subsidiary of BMW AG in Munich, Germany, has determined that certain model year (MY) 2014 BMW 7 series and 6 series vehicles do not fully comply with paragraph S5.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. BMW has filed an appropriate report dated December 5, 2013 pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision contact Amina Fisher, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5307, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION

I. BMW's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of BMW's petition was published, with a 30-Day public comment period, on June 6, 2014 in the Federal Register (FR 32815). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2013-0146."

II. Vehicles Involved: Affected are approximately 5,806 of the following MY 2014 BMW vehicles:

2014 BMW 7 Series manufactured between July 1, 2013 and November 4, 2013;

2014 BMW 6 Series Coupe M Sport Edition manufactured between May 15, 2013 and October 29, 2013;

2014 BMW 6 Series Grand Coupe M Sport Edition manufactured between May 15, 2013 and July 30, 2013; and

2014 BMW 6 Series Convertible M Sport Edition manufactured between April 2, 2013 and October 29, 2013.

III. Noncompliance: BMW explains that while using in-vehicle controls and displays, there is a possibility for the vehicle operator or front seat passenger to enable the speedometer to display vehicle speed in units of either only miles-per-hour (mph) or only kilometers-per-hour (km/h). Since all vehicles sold in the U.S. must display vehicle speeds in mph, or mph and km/h these vehicles fail to fully meet the requirements set forth in paragraph S5.2.1 of FMVSS No. 101.

IV. Rule Text: Paragraph S5.2.1 of FMVSS No. 101 requires in pertinent part:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2...

Table 1
Controls, Telltales, and Indicators
With Illumination or Color Requirements

Column 1 ITEM	Column 2 SYMBOL	Column 3 WORDS OR ABBRE- VIATIONS	Column 4 FUNCTION	Column 5 ILLIMIN- ATION	Column 6 COLOR
...					
Speedometer	-	MPH, or MPH and km/h ¹⁴	Indicator	Yes	-
...					

Notes:

...
14. If the speedometer is graduated in both miles per hour and in kilometers per hour, the scales must be identified "MPH" and "km/h", respectively, in any combination of upper- and lowercase letters.
...

V. Summary of BMW's Analyses: BMW stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. BMW states that vehicles are initially delivered for first-sale in a compliant state (speed display in miles-per-hour) and that it is only through driver (or passenger) interaction within the Settings menu that the display can be changed from miles-per-hour to kilometers-per-hour. BMW believes that this adjustment cannot be accomplished inadvertently.
2. BMW states that the two speedometer scales are noticeably different, and that if a previous driver changed the units, a subsequent driver would be able to tell at a glance that the scale is not in miles-per-hour.
3. BMW states that the indicated vehicle speed in km/h is 1.6 times greater than speed in mph. BMW believes that if a vehicle operator changes the display to indicate km/h and later forgets that the change had been made, the operator will clearly recognize that the vehicle is moving at a lower speed than intended and adjust the vehicle speed to match road and traffic conditions. This should signal the operator (at the next appropriate opportunity) to perform the necessary steps to adjust the speedometer.

4. BMW also states that the vehicle's Owner Manual contains information pertaining to the use of the iDrive™ controller to change the units displayed within the "Settings" menu. Therefore, if a vehicle operator needs to reconfigure the display to indicate mph, instructions are available.

5. BMW further states that the vehicle's Owner Manual and Service and Warranty Book contain the toll-free telephone number for BMW Customer Relations. Additionally, the in-vehicle iDrive™ system offers the vehicle operator a BMW Customer Relations menu option to directly contact BMW Customer Relations via the embedded wireless communications module. Therefore, if a vehicle operator notices that the speed is incorrectly displayed in km/h and does not know how to reset the speed to display in mph, e.g., as set by a prior operator, the vehicle operator can easily contact BMW Customer Relations for assistance.

6. BMW is not aware of any contacts from vehicle operators regarding this issue.

7. BMW is also not aware of any accidents or injuries that have occurred as a result of this issue.

BMW has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 101.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA DECISION

NHTSA Analysis: NHTSA has reviewed BMW's justification for an inconsequential noncompliance determination and agrees that the subject noncompliance is inconsequential to motor vehicle safety.

BMW explained that the affected vehicles are delivered in a compliant state with the speedometer displaying miles-per-hour (mph) and that switching the display to kilometers-per-hour (km/h) could not be done inadvertently because the driver (or passenger) would have to complete multiple interactions within the vehicle's settings menu to make the change. NHTSA agrees with BMW that it is unlikely that the switch from mph to km/h could be done inadvertently because several physical actions are required by the operator to make the change. We believe that if an operator were to make this change it would be done intentionally and with some understanding of the implications, and that such a change would not cause any impact to vehicle safety. Furthermore, we believe that the vast majority of the owners of these vehicles will continue to operate these vehicles as purchased (with the speed identified in mph) and never attempt to change to the metric units.

Next, BMW stated that the speedometer scales are noticeably different and provided figures showing the speedometer appearance with each different unit of measure. BMW explained

that if a previous driver changed the units being displayed a subsequent driver would be able to tell at a glance which scale is being used. The agency reviewed the speedometer figures provided by BMW indicating the different units of measure. We agree that it is easy to identify the units of measure being used because the abbreviated units are clearly labeled in the top center of the speedometer. We believe that the act of a driver realizing the vehicle is indicating speed in km/h instead of mph would not cause any unintended or unsafe actions by the driver and would thus be inconsequential to motor vehicle safety. In this case, once a driver realized the speedometer was indicating in km/h, we anticipate the driver would want to change the speedometer back to mph, and would refer to the owner's manual or BMW's customer assistance for guidance.

Lastly, BMW stated its belief that because indicated vehicle speed in km/h is 1.6 times greater than the same speed in mph, a driver who does not initially notice that a vehicle's speed indication is in km/h would soon recognize that the vehicle is moving at a speed much slower than the surrounding traffic and will adjust accordingly to match road and traffic conditions. With some caution, we agree with BMW's assessment. While a vehicle traveling as much as 1.6 times slower could hamper the natural flow of traffic, we believe that affected drivers would in-fact adjust their speed to the surrounding

traffic and then, at the next appropriate opportunity, perform the necessary steps to adjust the speedometer back to mph.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that BMW has met its burden of persuasion that the FMVSS No. 101 noncompliance is inconsequential to motor vehicle safety. Accordingly, BMW's petition is hereby granted and BMW is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at
49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Director
Office of Vehicle Safety Compliance

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